UNITED STATES PATENT AND TRADEMARK OFFICE

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Technology Center 2100

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Application Number: 09/993,277
Filing Date: November 05, 2001
Appellant(s): CHEUNG ET AL.

Jody C. Bishop
<u>For Appellant</u>

EXAMINER'S ANSWER

This is in response to the appeal brief filed December 1, 2005 appealing from the Office

action mailed July 7, 2005.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

No evidence is relied upon by the examiner in the rejection of the claims under appeal.

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

In view of Appellants' argument, the 35 U.S.C. §112, 2nd paragraph rejection of claim 11 is hereby withdrawn.

Claims 1-20 stand rejected under 35 U.S. C. §103(a) as being unpatentable over Miloslavsky (USP 6,732,156) in view of Tarbotton (USP 6,757,830).

With respect to claims 1 and 3, see at least the abstract, Figures 1 and 3, the corresponding description and claims 1 and 10 in Miloslavsky. Miloslavsky taught a system and a method of routing email messages (line 1, abstract, router 116 Figure 1 and lines 1-55 of column 5) to an appropriate one of a plurality of distributed email servers (the e-mail server of the selected support person, e-mail server 102 for example) for handling by personnel (the support person having the specific skill, items (a) to (i) of column 5) assigned to such appropriate one without requiring human intervention (the email in Miloslavsky is automatically routed by router 116 of Figure 1, line 26-28 of column 3) for said routing, the method comprising:

receiving (step 152 of Figure 3) an email message at a first server (e-mail server 102 of step 152);

executing software on said first server to autonomously determine characteristic information (step 154 of Figure 3, information is extracted from the e-mal) of a user having submitted information included in said email message;

executing software on said first server to autonomously select an appropriate one of a plurality of distributed e-mail servers for receipt of said email message based at least in part on said determined characteristic information of said user (a person having

the specific skill such as shown in item (a) to (i) of column 5 is selected, see step 158);

and

executing software on said first server to autonomously route said email

message to the selected email serve (see lines 25-34 and 60-64 of column 3, lines 1-55

of column 5 and step 160, the e-mail is routed by router 116 and e-mail server 102 to

the selected person having the specific skill).

The sole difference between the claimed invention and Miloslavsky:

Miloslavsky only shows one recipient mail server (102 of Figure 1). That is

because all the support persons in Miloslavsky are located in one processing center and

network 128 connecting support persons appears to be LAN (Local Area Network)

instead of WAN (Wide Area Network) or Internet. The support persons are therefore

able to share a single e-mail server. The similarity between Miloslavsky's invention and

the instant invention is that a selection is required to be made and the end result is a

support person being elected to serve a user. In Miloslavsky, the selection is made

directly to a support person because all support persons are commonly connected to a

single server because of their proximity. In the instant invention, a selection is made to a

server because the support persons require respective servers because of their

locations apart.

Outsourcing is well known in business world. It would have been obvious to an

ordinary person to employ support persons from different countries or continents and

use WAN and Internet for communication. Tarbotton shows in Figure 1 that e-mail users

are unable to share a single server if they are not located in a central and require

respective mail servers (8 and 4 in Figure 1). If the support persons in Miloslavsky are

not located in a central, it would have been obvious to a person of ordinary skill in the

art to incorporate more e-mail servers as taught by Tarbotton because the e-mail users

are unable to share a single recipient server because of the distance apart.

It is further noted that in Miloslavsky, router 116 sends a command to e-mail

server 102 to have the server to forward the received e-mail to a support personnel 124

or 122 connected to communication network 128 (lines 66-67 of column 4 and lines 4-5,

44-47 of column 5). The identified excerpts in Miloslavsky teache that an e-mail user

requires mail server such as 102 in order to send and receive e-mail although it can be

shared is the users are in a central.

As to claims 2 and 4-5, web server or default server are well known in the art.

The only requirement for a web server or a default server in claims 2 and 4 is that it is

able to receive and send e-mails. The e-mail server of Miloslavsky is able to send and

receive mails. Miloslavsky teaches that any server including web server and default

server can be email server 102 shown in Figure 1 so long as the server is able to send

and receive emails. Creating e-mail is inherent in an e-mail communicating system like

Miloslavsky's.

As to claim 6, Miloslavsky teaches in items (b) and (e) in column 5 that language

is one of support person selection criteria.

As to claims 7-12, in view of the examples of support person selection criteria

listed in item (a) to (i) of column 5, it would have been obvious to a person of ordinary

skill in the art to apply any criteria, including geograghical location, necessary to match

a user and a support person.

As to claims 13, see database 114 of Figure 1 and lines 50-59 of column 3 in

Miloslavsky.

As to claim 14, Miloslavsky also teaches in lines 42-59 of column 4 that

characteristic information extracted from a user (e-mail sender) includes addresses,

time stamp and key words.

As to claim 16, networks like WAN, LAN, PSTN, Internet and intranet, etc. are

well known in the art. See the description of network 104 in line 4-7 of column 3.

Claims 15 and 17-20 do not define above the invention claimed in claims 1-14

and 16 and therefore are rejected for the same reasons.

(10) Response to Argument

With respect to Appellants' argument directed to the Miloslavsky patent,

Appellants contended that Miloslavsky has only one e-mail server instead of a plurality.

The Examiner relies on the Tarbotton for that teaching. In response to applicant's

arguments against the references individually, one cannot show nonobviousness by

attacking references individually where the rejections are based on combinations of

references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck &*

Co., 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

Appellants contended that Tarbotton does not teach or suggest that each e-mail

recipient is required to have a separate e-mail server in order to receive e-mails.The

Examiner relies on Tarbotton for the teaching that if the support persons in Miloslavsky

are connected for communication by WAN or Internet (use wide area communication for

outsourcing to other parts of the world) like the one (6) used in Figure 1 of Tarbotton

instead of a LAN like the one (128) used in Figure 1 of Miloslavsky, a respective mail

server (8 and 12 in Figure 1 of Tarbotton) is required for each support person. The

result is that a selection is made to a server.

As to the Examiner's remarks that Miloslavsky alone meets the limitation of a

plurality of email servers, the Examiner's remarks are directed to Appellants' disclosed

embodiment shown in Figure 1. Appellants' Figure 1 shows two support personnel, one

in Japan and the other one in United States. As a result of the given distance, separate

servers are required (112, 110), one for each support personnel (116, 114). Figure 1 in

Miloslavsky teaches that a server is required in order to communicate using a network.

If one of the support person is in Japan and the other one in United States, it would

have been obvious to a person of ordinary skill in the art to provide a separate server for

each one of them because they can not share a single server because of the distance

apart.

As to claims 2 and 4, "web server" and "default server" limitations have already

been discussed in the Section 103 Rejection above.

As to claim 5, in lines 42-59 of column 4, Miloslavsky teaches what are submitted

by the users to a web server. Email creating is inherent in email communication.

As to claims 7-20, the limitations have already been discussed in the Rejection

above. Appellants fail to provide any supporting arguments as to why claims 7-12 are

patentable distinct from the applied references.

(11) Related Proceeding(s) Appendix

None.

In conclusion, Appellants merely identify or argue what are in the claims.

Appellants fail to provide any arguments as to why the invention as claimed is

patentable distinct over the applied references.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

David Eng
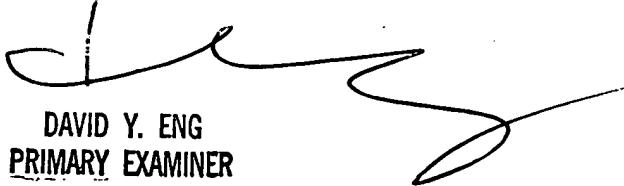
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